

FREDERICK COUNTY LIQUOR BOARD
Public Meeting Minutes
Monday, June 25th, 2018

Those Present: Mr. Jesse Pippy, Chairman
 Mr. Rick Stup, Board Member
 Mrs. Debbie Burrell, Board Member
 Mrs. Kathy V. Dean, Administrator
 Mrs. Linda Thall, Senior Assistant County Attorney
 Mr. Bob Shrum, Alcoholic Beverage Inspector
 Mr. Robert Lind, Alcoholic Beverage Inspector
 Mrs. Penny Bussard, Administrative Specialist V
 Mrs. Ashley Sklarew, Administrative Specialist V
 Mrs. Dawn Shugars, Administrative Specialist

A Public Meeting was held at 12 E. Church Street, Frederick, Maryland, and was called to order at 9:00 AM by Chairman Pippy.

1. Board Comments – This was Kathy Dean’s last hearing after thirty eight years.
2. Violations
 - a. Sales to Minor

Brewer’s Alley
Brad Winn
for the use of Brewer’s Alley, Inc.
t/a Brewer’s Alley
124 N. Market Street
Frederick, Md 21701
Class B, On Sale, Beer, Wine and Liquor
License #11BL 1051, FCLB Case#11301

Mrs. Thall swore in the witnesses. Mrs. Thall read the charge that on February 12th, 2018 at approximately 4:59 pm, either directly or through an employee, you sold or provided an alcoholic beverage to a person under the age of twenty one years. The person identified as Christian Polyniak was allowed to possess an alcoholic beverage in violation of §6-304 Maryland Annotated Code and §6.16 (a) and (g) of the Frederick County Alcoholic Beverages Regulations. The licensee pled not guilty to this charge. The minor identified at Christian Polyniak was not present. Mr. Pippy asked why the minor was not present. The officer did not know why he has failed to appear. Phil Bowers from Fountain Rock Management, which manages the establishment pled not guilty. Mrs. Thall asked the licensee if there was any objections to sharing the police report with the Board. Mr. Bowers had no objections to the request. Mrs. Thall made the Frederick City Police report as part of the record.

On February 12th, 2018 Officer Antezak and the minor entered the establishment at 4:59 pm. Upon being seated at the bar, the minor ordered an Oatmeal Stout 16oz beer. The server identified as Chrishaya Cunningham did not ask the minor for the identification. She served the minor the alcohol. The officer stated they did not consume any of the alcohol. At that point, Officer Stanley entered the establishment and advised the server that she had sold to a minor and issued her a citation. He also informed the shift manager Jeffrey Meadows.

Mr. Bowers asked for clarification from the officer of when they sat down did the bartender wait on them right away. Officer Antezak answered, "No." He reiterated the fact that another bartender provided them with menu's and walked away. They were in the middle of a shift change. The original bartender identified as Gavin went down to change the keg. The bartender that came onto her shift and thought Gavin had already carded them because they had their coasters in front of them. This was a miscommunication between the two bartenders. Mrs. Cunningham had assumed that Gavin had carded them already.

Mr. Pippy asked Mrs. Cunningham if she was under the assumption that the identification had been checked. She answered, "Yes, because of the coasters being in front of them." Mr. Pippy is not happy about the minor not being present after two notifications were sent out. He asked Mr. Bowers if he had received any compliance checks and had passed. Mr. Bowers stated that the establishment had passed one on January 31st, 2018. The next compliance check took place twelve days later. Mr. Bowers asked the officers how many other establishments get checked within a twelve day period. Officer Antezak stated they are provided a list and since the list stays the same, they check who is on the list. Mr. Pippy asked for clarification that the list doesn't show who has been checked before. Officer Antezak replied, "That is correct." The list contains every licensed establishment in the city. Mr. Pippy is concerned that an establishment is getting multiple checks within twelve days. He has assumed that the compliance checks are done fairly.

Mr. Stup asked who the alcohol awareness person on staff was at the time of the compliance check. Mr. Bowers stated they do in house training. They have multiple TIPS certified staff on premise at all times.

Mrs. Burrell has concerns about the compliance checks being done fairly. She asked the officers how many they do within the time frame they are given. Officer Antezak replied, "Maybe five to ten." Mrs. Burrell asked Mr. Bowers if there are postings with policies about carding. Mr. Bowers said there is a policy book there to utilize and they have a very strict policy. The server was terminated. He has a no tolerance policy.

Mr. Bowers was very concerned that he has been targeted. He presented the Board with a letter stating he passed the compliance check earlier in January.

Mr. Pippy reviewed the memo that was sent out to the agencies that perform the compliance checks. He emphasized the requirements this Board has asked the outside agencies to follow. He has issues with how this particular compliance check was done only twelve days after passing one. The minor not being present is an issue too.

Mrs. Thall asked about findings of fact and conclusions of law based on what was presented. The Board found in all the charges the finding of facts to be accurate and answered yes.

Mrs. Dean reviewed the violation history. On July 30th, 2015, there was a Failure to comply with the Fire Marshal, they paid a \$100.00 no contest fine. On October 26th, 2015, there was a Sales to Minor, they paid a \$400.00 fine.

Mr. Pippy reiterated that this Board is trying to make the playing field fair. He doesn't understand why this establishment had a compliance check within twelve days. His recommendation is to dismiss the charges with a warning.

MOTION: Mrs. Burrell made a motion to dismiss the case with a stern warning. During a shift change the bartender should make sure the next shift is aware of who is at the bar. The fact that the minor was not present and multiple compliance checks were done within twelve days is the other reason for dismissal.

SECOND: Mr. Pippy seconded the motion.

FURTHER DISCUSSION ON THE MOTION: Mr. Stup did not support the motion because the alcohol was served.

VOTE: Mrs. Burrell -Aye
Mr. Stup-Aye
Mr. Stup- Nay

The vote was **Ayes-2, Nay-1**
(Motion passed)

b. Sales to Minor

Ragin Reef
Steven Deffinbaugh, Jonathan Bostin, & Joan Deffinbaugh
for the use of Ragin Restaurant Group, LLC.
t/a Ragin Reef

506 E. Church Street
Frederick, Md 21701
Class B, On Sale, Beer, Wine & Liquor
License #11BL 5693, FCLB Case#11303

Mr. Pippy motioned to approve to hear the case without all licensees present.

MOTION: Mr. Pippy made a motion to waive any violations relating to all licensees not being present. The case will move forward with one licensee.

SECOND: Mrs. Burrell seconded the motion.

FURTHER DISCUSSION ON THE MOTION: Mr. Stup does not support the motion.

VOTE: Mr. Pippy -Aye
Mrs. Burrell -Aye
Mr. Stup - Nay

The vote was **Ayes 2, Nay-1**
(Motion passed)

Mrs. Thall swore in the witnesses. Mrs. Thall read the charge that on February 12th, 2018 at approximately 5:57 pm, either directly or through an employee, you sold or provided an alcoholic beverage to a person under the age of twenty one years. The person identified as Christian Polyniak was allowed to possess an alcoholic beverage in violation of §6-304 Maryland Annotated Code and §6.16 (a) and (g) of the Frederick County Alcoholic Beverages Regulations. The licensees pled Guilty to this charge with a stipulation. Mrs. Thall made the Frederick City Police report as part of the record.

Mrs. Thall stated that the plain clothes officer identified as Officer Antezak and the minor entered the establishment. The minor ordered a Bud Light bottle beer. The server identified as Brent McCoy did ask the minor for the identification. He glanced at it quickly and still served the minor the alcohol. The minor attempted to get his identification out of his wallet and the server stated "My boss is over there and I can just tell him I checked it". Officer Stanley advised the server that he had sold to a minor and issued him a citation. The server said this is the first time he has ever been accused of selling to a minor. Mr. Steven Deffinbaugh was advised of the incident.

Mr. Deffinbaugh wanted the Board to know that he trust his staff to do their job. The server had asked Mr. Deffinbaugh to explain the carding policy. He did explain to the server that we card everyone who looks under

35 years of age. The server proceeded to serve the alcohol. Mr. Deffinbaugh said he doesn't know what else they could have done to make sure this didn't happen. He educates his staff on carding policies. He wants the Board to know that alcohol is not their focus, it is their food. They do not stay open late nights for this reason.

Mr. Pippy went over the photo of the minor. He is 6'2", 182 lbs., and a full beard. He reiterated that in Maryland there is no requirement to ask for identification. How an establishment enforces that is on them. Mr. Pippy asked the server about the comments he made to the minor. Mr. McCoy admits that he said those comments. Mr. Pippy stated that he needs to actually look at the date on the identification to make sure the person is of age. Mr. Pippy appreciated his honesty on his comments he made to the minor.

Mrs. Dean stated there was no violation history for this establishment. Mr. Pippy asked if this establishment had passed a compliance check prior to this one. Mr. Deffinbaugh is not aware that they had been checked in the past.

MOTION: Mr. Stup made a motion to assess a \$500.00 fine.

SECOND: There was no second. Motion dies.

SECOND MOTION: Mrs. Burrell made a motion to assess a \$500.00 fine suspended with a six month probation.

SECOND: There was no second. Motion dies.

THIRD MOTION: Mr. Pippy made a motion to assess a \$500.00 fine.

SECOND: Mr. Stup seconded the motion.

FURTHER DISCUSSION ON THE MOTION: There was no further discussion.

VOTE: Mr. Stup-Aye
Mr. Pippy-Aye
Mrs. Burrell-Aye

The vote was unanimous ***Ayes 3, Nay-0***
(Motion passed)

c. Sales to Minor

Sabor De Cuba
Irieska Caetano, Nicholas Caetano, & Angel Gattorno
for the use of Sabor De Cuba, Inc.
t/a Sabor De Cuba
7-9 East Patrick Street

Mrs. Thall swore in the witnesses. Mrs. Thall read the charge that on February 12th, 2018 at approximately 5:39 pm, either directly or through an employee, you sold or provided an alcoholic beverage to a person under the age of twenty one years. The person identified as Alexis Bruchey was allowed to possess an alcoholic beverage in violation of §6-304 Maryland Annotated Code and §6.16 (a) and (g) of the Frederick County Alcoholic Beverages Regulations. The licensees pled Guilty to this charge. Mrs. Thall made the Frederick City Police report as part of the record.

Mrs. Thall stated that the plain clothes officer identified as Officer Clark and the minor entered the establishment. The minor ordered a glass of Chardonnay. The server identified as Anthony Tadeo did not ask the minor for the identification. He proceeded to serve the minor the alcohol. Officer Pecor advised the server that he had sold to a minor and issued him a citation.

Mr. Pippy asked the server if he knew who ordered which drink. Mr. Tadeo answered, "Yes." The server added that he is not Alcohol Awareness trained. Mr. Stup asked the server to explain. He said, "It was a stupid mistake." The manager was the alcohol awareness person on staff. They have implemented new procedures to address this deficiency in their policies.

Mrs. Burrell asked if this was their first compliance check. Mr. Caetano replied, "They have been in business over six years and assume they have had them in the past due to frequency of the compliance checks, he assumed they have passed. This is all based on an assumption. The file does not indicate any letters that show they have passed other compliance checks. Mrs. Burrell asked the officers about the frequency of the grant funded compliance checks. Officer Clark responded, "He doesn't have that information."

Mr. Pippy asked the server if he was twenty one. The server said he is not. In Frederick County you can be eighteen and serve alcohol.

Mrs. Burrell asked if any of the alcohol was consumed. Officer Clark replied, "No."

Mrs. Caetano voiced her concern regarding the minor touching the alcohol drink. She moved the glass from one side to the other. Mr. Stup said the point is mute because she was eighteen.

Mr. Pippy reiterated that they were only charged with serving the alcohol, moving the alcohol does not change the fact that a violation occurred.

The manager asked about the minor not being present and does that impact the case. Mr. Pippy said we have to weigh out all the factors.

Mrs. Dean reviewed that there was no violation history.

MOTION: Mr. Stup made a motion to asses a \$500.00 fine suspended with a six month probation.

SECOND: Mrs. Burrell seconded the motion.

FURTHER DISCUSSION ON THE MOTION: There six years of a clean record is why Mr. Stup made the motion.

VOTE: Mrs. Burrell-Aye
Mr. Stup-Aye
Mr. Pippy-Nay

The vote was **Ayes-2, Nay-1**

d. Sales to Minor

Los Trios
Toribio Ramos & Juyer H. Del-Cid
for the use of Los Trios, Inc.
t/a Los Trios
1306 W. Patrick Street
Frederick, Md 21703
Class B, On Sale, Beer, Wine and Liquor
License #11BL 1177, FCLB Case#11291

Mrs. Thall swore in the witnesses. Mrs. Thall read the charge that on February 12th, 2018 at approximately 4:25 pm, either directly or through an employee, you sold or provided an alcoholic beverage to a person under the age of twenty one years. The person identified as Ivy Wright was allowed to possess an alcoholic beverage in violation of §6-304 Maryland Annotated Code and §6.16 (a) and (g) of the Frederick County Alcoholic Beverages Regulations. The licensees pled not guilty to this charge.

Mrs. Wright testified that she entered the establishment with the plain clothes officer identified as Officer Myers. She went over the facts of her instructions for the compliance check. She was to enter the establishment order alcohol, if they requested identification, present it and say the real age if asked. If they did not request an identification, Mrs. Wright was not to say anything. She was also instructed not to touch the alcohol. Once the alcohol was served, she was instructed to leave the facility. The minor

ordered a Miller Light. The server identified as Daniella Martinez did not ask the minor for the identification. She proceeded to serve the minor the alcohol. Officer Myers advised the server that she had sold to a minor and issued her a citation.

Mrs. Thall made the Frederick City Police report as part of the record. Mr. Pippy asked if the minor was paid for her services. She responded that they are given movie gift cards to participate.

Mrs. Martinez testified that when they ordered she did not ask for identification but was planning on asking for it when she brought the beers back to the table. When she returned to the table the minor was not there. Mr. Pippy asked her to clarify that when they ordered the beers, did she ask for identification at that point. Mrs. Martinez said, "No." She had planned on checking the identification when she came back to the table. She added that she is alcohol awareness trained.

Officer Myers testified that they were served the alcohol and Mrs. Wright was present at the table when the beers were brought back to the table.

Mr. Stup asked the officer to clarify once more that the minor was present at the table when the alcohol was brought back to the table. Officer Myers stated, "That is correct."

Mrs. Burrell asked if any alcohol was consumed. Officer Myers answered, "Absolutely not."

Mrs. Thall asked the Board to fact and findings, the Board answered yes to all charges read from above.

Mrs. Dean reviewed the violation history. On July 7th, 2015, there was a Late to File a Renewal and no Alcohol Awareness person, they paid \$150.00 no contest fine. On August 2, 2017, there was an Alcohol Ratio Report not Filed, they paid a \$100.00 administrative fee.

Mr. Stup asked them what steps they have taken to prevent this from happening again. Mr. Del-Cid has a new policy that is now signed by employees. He reiterated that he reminds the servers daily to card anyone who looks under thirty. He is very upset that his servers give him excuses. He feels he should not be guilty because the error of the server.

Mr. Pippy commended his efforts and encouraged him to continue these practices going forward. Mr. Stup asked if he is TIPS certified. Mr. Del-Cid replied, "Yes." He doesn't understand why the licensee pled not guilty, he doesn't see any evidence that shows a not guilty plea. Mr. Del-Cid replied that he trains his employees, he tells them repeatedly to ask for

identification, what else can he do? He feels he tried his best to avoid this type of problem.

Mr. Pippy added that every establishment has the same challenges as he does. He understands he cannot control all the staff that work for him. It is a process, the more policies they put in place, the better off they will be. We are here to help them with any education tools that could assist in their business.

MOTION: Mr. Stup made a motion to assess a \$500.00 fine.

SECOND: Mr. Pippy seconded the motion.

FURTHER DISCUSSION ON THE MOTION: Mrs. Burrell asked the minor if she was present when the alcohol was served. The minor answered, "Yes." Officer Myers also replied, "Yes." Mrs. Burrell would like the same consistency offered to all cases with a clean record. Mr. Pippy said noted for the record.

VOTE: Mr. Stup-Aye
Mr. Pippy-Aye
Mrs. Burrell - Nay

The vote was **Ayes 2, Nay-1**
(Motion passed)

SECOND MOTION: Mr. Pippy made a motion to dismiss the charge of licensee failing to appear.

SECOND: Mr. Stup seconded the motion.

FURTHER DISCUSSION ON THE MOTION: There was no further discussion.

VOTE: Mr. Stup-Aye
Mr. Pippy-Aye
Mrs. Burrell - Aye

The vote was unanimous **Ayes 3, Nay-0**
(Motion passed)

e. Change to Premises

Bella Trattoria
Bretta Bowers & Grayson Bowers III
for the use of Unit Four, Inc.
t/a Bella Trattoria
129 N. Market Street
Frederick, Md 21701

Mrs. Thall swore in the witnesses. Mrs. Thall read the charge that on April 26th, 2018, Inspector Lind entered the establishment after being contacted by the Health Department regarding a new cooler being added. The basement was not part of the licensed area approved by the Board. The charge is Keeping Alcoholic Beverages in a non-licensed area is a violation of §4-502 (b) of the Alcoholic Beverages Regulations of the Maryland Annotated Code and §5.42 of the Frederick County Alcoholic Beverages Regulations, which prohibits a license holder from storing or keeping alcoholic beverages except on the licensed premises or at a public warehouse government controlled warehouse or individual warehouse for which a permit has been issued. The licensee plead not guilty. The inspectors report was made part of the record.

Mr. Lind went over the facts in the report. He explained that the Health Department had notified this Board that there was a cooler in an unlicensed area. He had asked Mr. Pistar for the diagram to be updated and requested that they submit a request to include this area for a licensed area. Mr. Lind asked Mr. Pistar a week later to the status of the diagram and he was going to have his secretary submit it to Liquor Board staff. Mr. Lind waited a few more days before writing the report to give Mr. Pistar time to submit the diagram. When he wrote his report the diagram still had not been submitted.

Mrs. Dean was asked to describe the licensed area from the file. She read it is noted as a two story brick building, first floor only. Mrs. Thall asked her has the staff received any request to expand the licensed premises. Mrs. Dean answered, "No."

Mr. Pippy went over the notice from the Health Department. It offered them two options. One to is to remove the unapproved installed equipment or to submit plans and specifications of the changes made. Mr. Bowers didn't do either option instead he met with the Health Department and explained the situation, they rescinded the violation. The Health Department realized it was their error. The only change was the configuration of the cooler, but the cooler was there previously. A letter was sent to other agencies explaining their error. The biggest obstacle was the draft system, the Health Department admitted they missed it on the original paperwork. Mr. Bowers said he reviewed his files and on three other renewal applications and he has never had this information for their storage area. The storage area has been there for a very long time. This storage area has been there since 2003. The inspectors have never mentioned anything before this. Prior inspectors have walked the establishment and have known about the storage area for many years. He has multiple establishments and this has not been an issue.

Mr. Pippy pointed out that the storage area needs to be part of the licensed area. Mr. Bowers said, "Honestly, I am not sure we were aware of that." They had never been notified by the Liquor Board prior to this incident. He wants that to be noted in this conversation. He has three other locations with the exact same issue. He has storage in the basement as many establishments downtown have. Mr. Bowers understood that his service area was all he has ever put on his applications and renewals. He knows for a fact that the area has been inspected prior to this by Mr. Boyle the inspector for the Liquor Board years ago. He even complained of the steps leading down to the storage area and how bad they were. In this renovation those stairs were replaced. All the other locations have very similar set ups. This has never been an issue and this clearly is an oversight.

Mr. Pippy reviewed the reasoning behind having the storage area licensed is to prevent illegal activity. The Inspectors only have access to licensed areas. This allows them to inspect the storage when necessary.

Mr. Bowers has no issues with outside agencies inspecting any areas of his establishments. The Heath Department went into the offices and they don't cook food there but he allowed it because he has nothing to hide. A disconnect happened with the line on the application that request the description of the licensed area, they assumed it was the service area only.

Mr. Stup made the point that this was an oversight and would like to make a motion that we dismiss the charges. He asked that the plans to be amended to add the areas. The diagrams need to be updated for the file.

Mrs. Dean stated that there was no violation history.

MOTION: Mr. Stup made a motion to dismiss the case and the file be updated with the storage area and a new diagram.

SECOND: Mrs. Burrell seconded the motion.

FURTHER DISCUSSION ON THE MOTION: Mr. Pippy asked them to update the file.

VOTE: Mr. Stup-Aye
Mr. Pippy-Aye
Mrs. Burrell - Aye

The vote was unanimous **Ayes 3, Nay-0**
(Motion passed)

f. False Statement

Urbana Fuel & Treats
Sameer Ailawadi & Surbir Kamboj
for the use of Urbana Fuel & Treats LLC.
t/a Urbana Fuel & Treats
8816 Fingerboard Rd
Frederick, Md 21704
Class A, Off Sale, Beer and Light Wine
License #11AW 1290, FCLB Case#11271

Mr. Pippy has an email that asking for a postponement from Sameer Ailwadi because of an injury. Mr. Camboj asked for the email to read to him. Mr. Stup asked Mrs. Bussard about the excuse letter from the doctors if she had the actual doctor notes. She did in her email. Mrs. Thall requested that the Board postpone because the testimony could affect the outcome of the charges. Mrs. Bussard pointed out that the partners have friction between them. It would be best if both parties were in attendance. Mr. Stup asked Mrs. Bussard to reissue request letters today for a new hearing.

MOTION: Mr. Stup made a motion to postpone the case until July 16th, 2018. He wants a charge added for failure to appear unless there is confirmation of a doctors notes in the email.

SECOND: Mrs. Burrell seconded the motion.

FURTHER DISCUSSION ON THE MOTION: There was no further discussion.

VOTE: Mr. Stup-Aye
Mr. Pippy-Aye
Mrs. Burrell-Aye

The vote was unanimous **Ayes 3, Nay-o**
(Motion passed)

g. Sales to Minor

Flying Dog Brewery
James Caruso
for the use of Flying Dog Brewery LLC.
t/a Flying Dog Brewery
4607 Wedgewood Blvd
Frederick, Md 21703
Class DBR , Beer Only
License #11DBR 4480, FCLB Case#11271

Mrs. Thall stated there will be no additional testimony heard today. Mr. Pippy understood that this hearing was to go over the adjudication of the

postponed case. Mrs. Thall wants for the record that the parties are sworn in and under obligation to tell the truth. Mr. Pippy wants clarification of why we are back here today. Mr. Robert Kresslien reviewed the facts of the case from the previous hearing. Fly Dog appeared before this Board on March 26th, 2018 and pled not guilty for a sales to minor. He went over that the Board does not have a policy in place for a probation before judgement. They had submitted additional information on May 1st, 2018. The basis for their request was that they hold licenses in multiple jurisdictions around the country and this violation could affect their bonding. They are here today for a decision of whether this Board will defer judgement on this case.

Mr. Pippy reached out to neighboring jurisdictions. The Board discovered that 23 of the 25 do not offer a PBJ option. We are in line with these jurisdictions. We investigated that you will not have to record this finding on the brewery bond. We are an administrative Board. In this particular case the minor and the officer were present at the last hearing. With all these facts it does not appear that there is anything outside the lines. Mr. Pippy asked if other breweries were getting checked and he found out they are. When the PBJ is used in the criminal side, the defendant pleads guilty and the judge decides this is an option for the case, he uses it. In this case you pled not guilty, and we as a Board need to stay consistent. Mr. Pippy does not see any irregularities that warrant a PBJ in this case.

Mr. Kresslein added that in this particular case is the disproportional effect of the finding. There are states that will require this case be reported. The Comptroller has indicated that this finding can be considered to put their manufacturing license at risk. He is still requesting this Board to consider PBJ option because of the different circumstances that this licensee faces. Mr. Kresslein is not requesting any special treatment but that the Board consider what impact that could have to Flying Dog globally. They are not attempting to avoid any consequences.

Mr. Pippy does not see the irregularities. He has to treat the mom and pop the same and the larger companies. He cannot see where this is different those violations that have been heard in the past. Mr. Pippy went the extra mile to research the options in other jurisdictions and doesn't see where this warrants PBJ.

The record indicates that there is no violation history.

Mr. Stup is not against looking at being the lead on change here in Frederick County. He is not adverse to a change in policy that would not fit more than one licensee and be retroactive. He suggested a public hearing so that we could get input from our licensees. Mr. Stup suggested that we postpone this again to give the public time to provide feedback.

Mrs. Burrell added the just because we haven't done something before doesn't mean we don't consider this for the future. She feels interstate commerce is different. It is challenging for those businesses who cross state lines. She is concerned that there are inconsistency in the compliance checks. Mrs. Burrell would like this Board to review establishing a new policy. Once something is on the record it stays there. We are an administrative body and we abide by different rules. She would like this option to be explored before a decision is made.

Mr. Pippy has mixed emotions over these compliance checks. The option expungement has been suggested. These options need to be offered to everybody. He doesn't feel at this time this case should be treated any differently than others who have come before this Board. He doesn't understand why this Board would do anything different in this case.

Mr. Stup asked that we explore this option and get public input. He said that any licensee at any given time can request anything to this Board for us to consider. He would like us to be explore this option and get public input.

MOTION: Mr. Stup made a motion to continue the case. The Board will need to get public testimony on establishing a policy for PBJ. If the Board decides to move forward, then this case comes back within a month of the policy being adopted. If the Board decides not to proceed with the policy then the case comes back within 30 days for resolution.

SECOND: Mrs. Burrell seconded the motion.

FURTHER DISCUSSION ON THE MOTION: Mr. Pippy reiterated that this is unique. This is a deviation of the current policy. He feels it is just for one licensee. Mr. Stup interjected that if another licensee wants to request something similar, this Board would take it under advisement. Mrs. Burrell stated this needed to be offered to all licensee. Mr. Pippy doesn't agree because the other licensees have already pled guilty and don't have the same option. He wants to know what the Board would like do with those cases. Mr. Stup said we will open it up to those who request it. Mrs. Burrell added that the other licensees had the same opportunity to hire counsel and request this same thing. Mr. Pippy says we don't want to put our business partners in jeopardy. All our smaller mom and pop licensees need to know they are just as important as the larger establishments.

VOTE: Mr. Stup-Aye
Mr. Pippy-Nay
Mrs. Burrell -Aye

The vote was **Ayes 2, Nay-1**

(Motion passed)

3. New Licenses

a. House Cat Brewing

House Cat Brewing Company
Joseph Idoni
for the use of House Cat Brewing Company
t/a House Cat Brewing Company
400 Sagner Avenue, Suite 100
Frederick, Md 21701
Class DBR, On Site Consumption, Beer Only

Mrs. Dean swore in the applicants. The pending items are Occupancy permit, Zoning, Fingerprinting, and Health Department, Trader's License, ABLE Training and Inspectors report. Mr. Idoni asked for clarification of the ABLE training. Mrs. Dean informed him every new licensee attends this training to go over our Regulation Book. Mrs. Thall asked for an update of the other pending items. Mr. Idoni is waiting on the City to approve all the other pending items. He hopes these issues will be resolved by the end of the week. Inspector Lind went out the establishment on June 18th, 2018 and they meet all the requirements of this Board.

Mr. Pippy asked if they were located next to Attaboy. Mr. Idoni replied yes and they have invited us over to their brewery. This is a friendly group and they have welcomed us to the industry. Mr. Pippy went over the requirements of ABLE training and its intention is to educate our new licensees. This is to be used as a tool for the expectations of this Board.

Mrs. Burrell went over the template available online to utilize for responsible serving.

Mr. Stup asked if they are aware that an Alcohol Awareness person has to be on the premises at all times during the service of alcohol. The outside area meets all the requirements of this Board.

There was no public comment.

MOTION: Mr. Stup made a motion for conditional approval until September 24th, 2018, includes the outside area and entertainment.

SECOND: Mrs. Burrell seconded the motion.

FURTHER DISCUSSION ON THE MOTION: There was no further discussion.

VOTE: Mr. Stup-Aye
Mr. Pippy-Aye

Mrs. Burrell -Aye

The vote was unanimous ***Ayes3, Nay-o***
(Motion passed)

b. Tapia's on Main

Tapia's On Main
Jose Tapias,
for the use of Tapia's on Main LLC.
t/a Tapias's on Main
203 E. Main Street
Middletown, MD 21769
Class B, On Sale, Beer, Wine & Liquor

Mrs. Dean swore in the applicants. The pending items are the Occupancy permit, Fire Marshal, Health Department, Trader's License, and the Inspectors report. Mr. Tapias said that construction will be going on until the end of September. Inspector Shrum went out the establishment and they are still under construction and not ready for inspection. He gave them his contact information for when construction is complete.

Mr. Pippy asked for a projected completion date. Mr. Tapias stated that the contractors are working daily to keep them on schedule. They need about two months to complete the construction.

Mrs. Dean read the violation history for the license held in other jurisdictions. There was a sales to minors in 2015, they paid a \$1500.00 fine. On June 12th, 2012, a sales to minor, paid a \$1200.00 fine. On December 10th, 2010, a sales to minor, paid a \$500.00 fine.

Mr. Tapias elaborated on what they are doing differently to avoid any sales to minors at this new location. He has new policies that have been implemented with training. The employees are required to sign off on a carding policy.

Mr. Stup made them aware that then need to have someone on staff at all times who is alcohol awareness certified. The entertainment and outside area meets the requirement of this Board.

There was no public comment.

MOTION: Mr. Stup made a motion for conditional approval until January 26th, 2019, includes the outside area and entertainment.

SECOND: Mrs. Burrell seconded the motion.

FURTHER DISCUSSION ON THE MOTION: There was no further discussion.

VOTE: Mr. Stup-Aye
Mr. Pippy-Aye
Mrs. Burrell -Aye

The vote was unanimous **Ayes3, Nay-0**
(Motion passed)

4. Conference

a. Bushwaller's

Bushwaller's
Amber Demorett
for the use of Bushwaller's
t/a Bushwaller's
203 E. Main Street
Frederick, Md 21701
Class B, On Sale, Beer, Wine & Liquor

Mr. Pippy went over that this is a conference. He reviewed the report that that was submitted to the Liquor Board by the Fire Marshal. Mr. Poole reviewed the case dates on the reports. Mr. Pippy went over the contents of the reports for overcrowding for various events. He said in order to hold a license in Frederick County there are agencies that the establishments must be in compliance with. As he understands each establishment has a posted capacity. This Board has been made aware that the capacity has been exceeded on several occasions. The Fire Marshal has notified Mrs. Demorett of the infractions. It seems that she continues to exceed capacity. Mr. Pippy would like her feedback on this issue.

Mrs. Demorett asked for suggestions on how to work together with the Fire Marshal. Bushwaller's has been operating for over thirty seven years the exact same way. She has owned it for the last nine years. Mrs. Demorett has not changed her way of doing business. She met with Steve Krone back in 2014 and other county employees to help her with the capacity issues. They do not have a sprinkler system. The landlord doesn't want to invest any money into to getting a sprinkler system. Her impression is that when they removes tables and chairs the occupancy would increase. Her understanding of the process is that sometimes the Fire Marshal would come out to issue a special permit, other times they would not. She feels there has been inconsistencies. There have been different occupancy amounts allowed. She has different temporary occupancy permits to prove there have been different occupancy loads. She doesn't know how to proceed and doesn't

ever get any clear guidance, she is seeking advice. She doesn't understand after thirty seven years what has changed.

Mr. Pippy understands that government is confusing. In the Alcohol Article it does state that a licensee does have to comply with the Fire Marshal. He understands where the different permits can cause a problem. Mrs. Demorett was told she could have 7 people per square foot. Once you remove tables and chairs it is 15 people per square foot. This is what she used as her guideline. Mr. Pippy went over the new law that has passed in regards to 28 seats. The reason the policy was established is that if you would go below fifty seats you would require approval but now this law will address that issue. This Board just wants to be sure you are following what the Fire Marshal requires. There are safety concerns for overcrowding. Mr. Pippy wants to know why this establishment was given higher occupancy loads in the past. This is why this led to this confusion.

Mr. Poole would like to be on the record that the permit was issued in error. This was issued by a prior Fire Marshal. Mr. Poole and Mr. Krone informed her that the usage type for the building is an A2 assembly, which requires a sprinkler systems if you exceed 100 people. Since she does not have a sprinkler system, this is what is holding her up from getting temporary capacity certificates even with removing tables and chairs. She needs to get a sprinkler system. This would allow her to increase her capacity. He has pulled reports dating back to 2011 showing that this establishment was severely overcrowded. In 2013 there was a capacity of 176 in one of the history reports. He would like to point out that the back exit is not easily accessible. This is a national fire code. There is no deviation from the fire code. When they met with her in March of 2017, they suggested she get the sprinkler system. If she would get the sprinkler system that would raise the capacity.

Mr. Pippy asked Mr. Poole to clarify if the code had been modified in the last seven years. He replied, "No." Mr. Pippy clarified if she removed all her tables and chairs that she could not go above 100 people. Mr. Poole replied, "She cannot go above 100." Mrs. Demorett is frustrated that there is no clear direction. Removing table and chairs is a huge process for her that is why she told the Fire Marshal why bother. This was only going to gain her 9 additional seats. She is saddened that she has trusted the government to keep some of her records only to discover that this was not done. She has witnesses that can testify to the fact that she has been given different capacity certificates. Mr. Pippy stated that if mistakes were made in the past, he cannot correct those. He wants to move forward. Mrs. Demorett replied, "If the laws is crystal clear and she can only have 99 people, then she should close her doors on those big days." She can lose tens of thousands of dollars on those four days. Those four days would carry her through the year. She also pointed out that if we want to be fair, why downtown the only area is checked four times a year for overcrowding. She asked, "Does the Fire

Marshal check these other places on the big days of the year?” Mr. Pippy says we have zero control over the outside agencies. She has been quoted for sprinkler systems at around seventy thousand dollars. This does not include reaching out to Permits which would open up another set of issues. Bushwaller’s is an old building that would take upgrades to the electric and water systems. This is just the tip of the iceberg for what it could cost to put in a sprinkler system. She thinks it will be around one million dollars to do the entire system properly. Mr. Pippy asked if the property owner was involved. Mrs. Demorett replied, “They are unwilling to invest in a sprinkler system.” She feels getting a sprinkler system in a historic building is not feasible. Mr. Pippy wants to make sure she understands that this Board has no ability or jurisdiction to waive or modify any requirements required by the outside agencies. Unless the laws change we are expected to follow them. If the law is outdated then we can suggest changes.

Mrs. Dermorett doesn’t understand if they been conducting business this way for over thirty seven years, why all of the sudden has this become this pressing issue. She is very confused. She is open to suggestions as to how to address the situation besides getting a sprinkler system, that doesn’t seem feasible financially. She says because one particular Fire Marshal comes in and decides that she is breaking the law, it doesn’t make sense. There are no concrete answers given.

Mr. Pippy asked Mr. Poole if there is a common occurrence downtown of overcrowding. Mr. Poole stated that those establishments have been sent the same exact warning letter. He says they try to take that approach to give an establishment the opportunity to correct the issues.

Mr. Poole came to the department in June of 2015. He asked the Inspectors how long had this been going on? They responded for as long as they can remember. He researched the codes and went out November 2015 and March 2016. He verified that the information he was given for this establishment of habitually has been overcrowded. They had worked with the door staff to reduce the occupancy number. Typically when his staff has questioned the door staff from this establishment about the occupancy load, the standard answer is I don’t know. Mr. Poole had to post Fire Marshal staff at the door for two hours to get this establishment to the safe occupancy load. Steven Krone and Mr. Poole had met with Mrs. Demorett about solutions on how to increase her capacity. Short of putting a sprinkler system in, she cannot increase her capacity. Mr. Pippy asked is there anything else she can do. Mr. Poole said he does not write the codes, this is a national code. The counties within the State adopt these codes. The Fire Marshal follows those codes. In March of 2018 they went into the establishment that afternoon and there was over 165 people. He went back later that night and they were under capacity. He felt they had heeded the warning.

Mr. Pippy went over that state laws are clear. If the Fire Marshal comes in and gives you a warning and you ignore this warning, there is going to be an issue. Measures need to be taken in order to increase the capacity. He told her that she cannot continue to ignore these warnings. There will be an issue.

Mrs. Dermorett asked if there was anything that could grandfather this historic building in, especially since it has four exits. She was hopeful that there would be some consideration for a historic property. Mr. Pippy suggested that until there is a resolution, she should follow the current regulations. She says she is trying very hard to do that. The method of the counting doesn't seem to work. She had gone through and counted herself during St. Patrick's Day and found she had 92 people. She says counting people is hard to do.

Mr. Pippy asked Mrs. Dermorett "What do you recommend that we do if you are over 100 people and the Fire Marshal gives you a citation." She wants a fair way to work it out. Allowing her to have 99 people is not sustainable for her. She feels like this Board is trying to shut down her business. Mr. Pippy asked Mr. Poole if there was a State Fire Marshal. Mr. Poole replied if we ask them to come along with us and they witnessed that there was 176 people in the establishment, they would shut it down. Mr. Pippy asked if there was maybe a creative way they could come out and look at this situation. He asked if there was no workable route. Mr. Poole said to keep in mind that the City Fire Engineer would be the first route to start. His group only enforces what the City establishes as an allowable capacity. He suggested that Mrs. Dermorett start with the City. Mr. Pippy wants it confirmed that this is her only option.

Mr. Pippy wants to make it clear that if an application came before this Board without Fire Marshal approval, that license would not have been issued. This is part of the application process. We have to follow the current State Law. This cannot be ignored. Mrs. Dermorett explained that she has tried to work with the situation. She sent letters to all the county agencies and the Governor. She wants to be compliant with the Regulations. She says Mr. Poole recommended that she work with the City, then the City says work with the County, then the County tells me to work with the State, then the State says it is a County issue. She pointed out that this circle gives her no concrete answers. How can she be compliant if no one knows who she should be dealing with to resolve this issue? She feels like she has tried.

Mr. Pippy offered to submit a request to the State of Maryland to give her clear direction. Mr. Poole wanted to clarify that the City of Frederick, Todd Himes office establishes the occupancy number. Our office issues the temporary certificates, but that is very rare. If we do issue a temporary, it is for a special event that is having a large tent. We will be in contact with Mr. Poole and get some answers. Mr. Pippy asked Mr. Poole for contact

information for the State. We will reach out to them once we submit the inquiry. This Board will put our heads together and come up with a workable solution. An alternate plan would be that Bushwaller's will have to pay for some modifications. This is a cost of doing business. The Board will get an answer from the State but in the short term we recommend that the establishment comply with the Fire Marshal and the law that is on the books. Mr. Pippy wants to resolve this before by September. Staff will reach out to Mrs. Dermorett once we submit the request to the State.

5. The Brewery licensing fee has been offered at a reduced rate. Mr. Pippy went over the amount that is currently is offered at \$1000.00 per year. The DBR portion is \$500.00. This makes a total of \$1500.00 for Brewery license. Mr. Stup doesn't feel there isn't enough data to make a decision today. He would like to continue applying the reduction for one more year. He would like a two tier system set up based on our expenses. Mr. Stup would like to review more history on this. Mr. Pippy asked Mrs. Dean what the Class B licensing fee was for Beer, Wine and Liquor. She replied "Fifteen hundred." She added a full blown hotel pays two thousand per license year. Mr. Stup wanted the discussions to go back to the original feedback of how much time would this add to additional inspections, or tracking their events. He feels if we reduce it now, it will be difficult to raise the fee at a later date.

MOTION: Mr. Pippy made a motion to permanently reduce the Brewery licensing fee to \$1000.00 effective July 1st.

SECOND: Mrs. Burrell seconded the motion.

FURTHER DISCUSSION ON THE MOTION: There was no further discussion.

VOTE: Mr. Stup-Nay
Mr. Pippy-Aye
Mrs. Burrell -Aye

The vote was **Ayes 2, Nay-1**
(Motion passed)

6. Arena License – The General Assembly passed this for July 1st. Mr. Pippy read the policy to the public. He wanted to make a motion to reduce the licensing fee. Mrs. Thall had not had a chance to review it yet. The Board will put the vote off until July 16th, 2018.
7. Regulation Update – Mr. Pippy read through the Regulation updates:
 - a. Hotel, Barbershop & Beauty Salon – Requires more defined rules to allow the Inspectors to understand what needs to be enforced. These are not the same as regular Class B license. Barbershop's have to stop selling at 9:00pm. There was no objection to the additional clarification.

- b. Multi Day – Multi Event the wording should be updated to match State Law. The Board agreed to update the change.
- c. Define Society or Association – Club is the only one defined, the Board will come up with verbiage to define these and bring this to another hearing.
- d. Licensee needing to be present at an event – This pertains to Specials license. The Board will need to clarify multiple licensees present at the event. Mrs. Dean suggested that the Regulations be more defined or a handout just for Specials because the entire Regulation Book does not pertain to that type of event.
- e. Beer Festival – This needs to be updated in the book with State reference.
- f. Application – Endorsements – Requiring notaries for electronic copies. The new system will be online and all the documents will be submitted electronically. The Board would like to have the new online system up first to discuss further. Mrs. Bussard pointed out that most jurisdictions allow electronic documents. This would assist licensees with Endorsements and changes. This would allow them to send electronic versions.
- g. Majority change in ownership – Mrs. Bussard added that other counties utilize the supplemental application. There are no hearings required. She emphasized the process is cumbersome and adds fees to the licensee. Mrs. Burrell wants to review this a little more before a decision is made.
- h. Date Change – The Board approved taking applications during renewal but cannot issue the license until April 15th. Staff has streamlined the renewal process and with the gained efficiency, they can handle taking applications in at the same time of renewals. Applications will go live early for renewals, we no longer have to wait to post them.
- i. Signatures – The new system will be capable of sending out notices to the area of which the license will be issued. This is required by State Law. The Board will not change anything at this time.
- j. Workman's Compensation – The Board approved to collect information only, we do not have to get a copy of the certificate.
- k. Officers Changes – The Board has approved to allow the officer changes to be done without notifying the Board. This will be done with a supplemental application.
- l. Lease – The Board approved that we will no longer require landlord signatures on the renewal as long as the lease is good through the renewal year and the new verbiage is added to the renewal application.
- m. Taxes – Is there a separate sheet required for a breakout of taxes owed. How can we verify anything? State Law does not require this sheet. Mrs. Dean is still waiting on Jeff Kelly.
- n. Time periods in the Regulation Book – Mrs. Bussard wants to be consistent in the Regulation Book for notification periods. We have five days on some,

ten days on others, and then the two weeks. We are trying to be more consistent. The Board tabled until a later date.

- o. Delivery process – The records of the deliveries to be kept on the establishment site instead of sending them in once a month. Mrs. Dean said this was put in place to help control the review of making sure the deliveries were being done lawfully. This would be the same practice as the invoices and receipts that are kept on site for the inspectors to review. The Board wanted more time to think on.
 - p. Consumption Hours – This was updated per State Law.
 - q. Alcoholic Beverage- This was updated per State Law.
 - r. Hours of operation – The Board approved that one licensee can sign and this can be accepted electronically.
 - s. Charity Auction Item – Currently you cannot give away alcohol as a license holder. Mrs. Bussard is asking for the Basket of Cheer to be added as a topic of discussion. This was tabled by the Board.
 - t. Resignation of Licensee – The Board approved to remove this Regulation.
 - u. Alcohol Ratio – The Board approved for these to be collected at renewal time once a year. There is language to be added to the renewal application to address this.
 - v. Tables and chairs – The Board has two current licensees that have tables and chairs. The Fire Marshal would have to approve this change in the establishment. Class A State Law states there can be no tables and chairs. This will be reviewed further by the Board.
 - w. Nudity – Draft house license, the Board will table this for further review.
 - x. Bowling Alley – The Regulation states you may give no more than \$50.00 on a giveaway. Mrs. Dean stated it was only \$25.00. That was incorrect. The book states \$50.00. That was confirmed.
 - y. Forms of ID – The Board approved to remove the international driver's license.
 - z. Infusion – State Law allows infusion mixed outside of original bottles to be stored for 3 days. The Board approved to expand this Regulation per State Law.
 - aa. ABLE Training – The Board approved for this to be added into the Regulation book. This is required for new licensees.
 - bb. Corporate Seal – Mrs. Dean is still waiting for Jeff Kelly. This has been researched under corporate law and the seal is not required. Mrs. Shugars will research further to clarify that the word seal can be added to the end of the sentence. This is in corporate law that signifies the word seal can be used, not drawing it by hand.
8. Minutes Update – Minutes are up to date.

9. Public comment – KYO Sushi requested that their conditional approval be extended. Mr. Pippy extended the conditional approval until the September hearing. That date is not set yet. Mrs. Burrell agreed. Once we have the hearing date set, we will notify the applicant.

Meeting adjourned at 1:30 pm

Respectfully submitted,
Dawn Shugars
FREDERICK COUNTY LIQUOR BOARD